



Hugh McDonald
SECRETARY OF COMMERCE

Alan McClain
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

BEFORE THE ARKANSAS INSURANCE COMMISSIONER

NOTICE OF ADMINISTRATIVE HEARING

IN THE MATTER OF:
DAVID SMITH
ARKANSAS INSURANCE PRODUCER
LICENSE 1657205

March 3, 2023

To: David Smith
1504 Holly Street
McGehee, Arkansas 71654

Dear Mr. Smith,

You are hereby notified that an administrative hearing has been scheduled pursuant to Ark. Code Ann. § 23-61-303 and other applicable provisions of Arkansas law, before Insurance Commissioner Alan McClain, as Hearing Officer, or his designee, and will be held on April 13, 2023, at 9:00AM. in the Arkansas Insurance Department ("Department") 2nd Floor Diamond Mine Hearing Room, 1 Commerce Way, Arkansas Commerce Building, Bldg. 4, Little Rock, Arkansas, 72202. The purpose of the hearing is to consider the following allegations:

1. Respondent, David Smith, holds an Arkansas Resident Insurance Producer License, National Producer Number 1657205, and is a resident of McGehee, Arkansas.
2. Respondent, through his agency, First Arkansas Insurance of Dumas, previously employed Mr. Joshua Smith as an insurance producer.

3. In 2019, Joshua Smith failed to timely submit his insurance producer license renewal application. In 2020, Joshua Smith's insurance license lapsed and became inactive. Although he knew his license was inactive, Joshua Smith continued to engage in insurance related activities as though he was a licensed agent for the benefit of his employer, First Arkansas. In 2020, Joshua Smith created a forged insurance license for fraudulent purposes. In 2021, he sent the forged license to an insurance company for the purpose of persuading the company he was still a licensed agent with an active license. The insurance company did not consider the forged insurance license to be authentic and requested Mr. David Smith confirm Joshua Smith had an active license with the company.
4. In April of 2021, Joshua Smith admitted to David Smith he had altered an insurance license and sent the forged license to an insurance company. Joshua Smith further acknowledged to David Smith he no longer had an active producer license.
5. Upon learning Joshua Smith no longer had a valid or active insurance license, David Smith modified Joshua Smith's job responsibilities to reflect Joshua Smith no longer had a producer license but he continued to be employed by the agency.
6. Joshua Smith engaged in a fraudulent insurance act when he created a forged insurance license and delivered that forged license to an insurance company for insurance business-related purposes.
7. Any person engaged in the business of insurance having knowledge or a reasonable belief that a fraudulent insurance act has been committed is required by Ark. Code Ann. § 23-66-505(a) to provide to the Insurance Commissioner information concerning the fraudulent act. Failure to report knowledge of a fraudulent insurance act is a violation of the Arkansas Insurance Code. David Smith's actions were a violation of Ark. Code Ann. § 23-66-505(a).
8. David Smith, as a person engaged in the business of insurance, had an affirmative obligation to report his knowledge of Joshua Smith's fraudulent acts and did not do so. His actions were a violation of Ark. Code Ann. § 23-64-512(a)(7): "Having admitted or been found to have committed any insurance unfair trade practice or fraud. . ."
9. Joshua Smith continued to engage in the business of insurance as an employee of First Arkansas after David Smith learned Joshua was no longer licensed.
10. While employed at First Arkansas, Joshua committed a series of fraudulent insurance acts. Beginning in 2020, Joshua accepted insurance premiums from several customers but did not procure the customers' insurance policies as promised. The customers' premium funds

were deposited into First Arkansas's accounts for the purpose of payment for insurance coverage. Instead of providing the customers insurance policies, Joshua Smith provided these customers with forged certificates of insurance and fraudulently led numerous customers to believe they had liability coverage for their vehicles when they did not.

11. Joshua Smith's fraudulent acts began while employed at First Arkansas's and he continued to commit fraudulent acts after David Smith knew Joshua Smith had created a forged insurance license.
12. In December of 2021, the Arkansas Insurance Department issued a cease and desist order commanding Joshua Smith to immediately cease engaging in any insurance-related activity that required a producer license.
13. Despite knowing of Joshua Smith's fraudulent activity and the order commanding Joshua to cease and desist engaging in any activity that required an insurance license, David Smith continued to employ Joshua at his insurance agency. David Smith terminated Joshua Smith only after Arkansas Insurance Department investigators conducted a record inspection of the insurance agency, First Arkansas, at which time investigators discovered Joshua Smith was still employed at the agency and continuing to engage in the business of insurance.
14. Several customers of First Arkansas believed they had insurance coverage for their vehicles when in fact they did not. Believing they had insurance coverage, some of these customers attempted to file property or casualty claims for losses.
15. A customer of First Arkansas, Dr. Joe Miles, was led to believe by Joshua Smith he had an insurance policy for his vehicle, a 1990 Mack Truck. Dr. Miles incurred a property loss to a vehicle he believed was insured based on Joshua Smith's misrepresentations and fraudulent insurance acts. Had Joshua Smith and First Arkansas provided him with an actual insurance policy, Dr. Miles could have submitted a property loss claim requesting to be indemnified \$11,595.67. But for the fraudulent actions of Joshua Smith while he was employed by First Arkansas, Dr. Miles' property loss would have been a covered claim for which he would have been made whole.

You have the right to represent yourself or be represented by legal counsel of your own choosing at this proceeding. Additionally, the Commissioner will obtain a competent reporter to record the

hearing. You may avail yourself of other privileges, including the Department's assistance to subpoena any needed witnesses or records.

Your verbal or written notification that you have received this notice of hearing must be received in this office within ten (10) days of your receipt. If your notification is not received by the Department within ten (10) days, any and all expenses incurred by the Department in continuing the hearing or in notification of witnesses, including but not limited to, phone calls, issuance of subpoenas and postage, will be charged to the party or parties requesting such continuance. If you or your attorney determines that a continuance is necessary, you wish to waive your right to a hearing, or you have questions or concerns, please contact me at gray.turner@arkansas.gov.

Sincerely yours,



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